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David W. Slayton,
Executive Officer/Clerk of Court,
By S. Bolden, Deputy Clerk

Attorneys for Defendants
SEYMOUR, LLC; CEP, INC.; and
CANON EQUITY PARTNERS, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

AMY KUNEY; LAUREN SNYDER;
KIMBERLY ABOLTIN; JOSEPH DURAY;
CARLANN MATZ; CECILIA CANO; PETER
MOLINARI; MILA SPIGOLON; JILL
ROOZENBOOM; MARY CAMERON
ROGERS; ANGEL GARET; EVELINA
CARTASOVA; AIDAN GOULDING; ZIMO
LI; LUCIA KRAMARCZUK; GABRIEL
BERISTAIN; ANA FRANCESCA
ROUSSEAU; STEPHEN KIMS; ALEXANDRA
KESHEN; AND WARREN PAUL
BROCKETT, AS SUCCESSOR IN INTEREST
TO CATHERYN BROCKETT (DECEASED),

Plaintiffs,

v.

SEYMOUR, LLC; RITZ PROPERTIES, INC.;
CEPM, INC.; CANON EQUITY PARTNERS,
LLC; AND DOES 1 THROUGH 50,
INCLUSIVE,

Defendants.

CASE NO: 23STCV22597

**DEFENDANTS SEYMOUR, LLC; CEP,
INC.; AND CANON EQUITY
PARTNERS, LLC'S ANSWER TO
PLAINTIFFS' COMPLAINT**

Complaint Filed: 09/09/2023
Trial Date: (None)

Defendants SEYMOUR, LLC; CEP, INC.; and CANON EQUITY PARTNERS, LLC

(hereinafter collectively "Defendants") hereby answer the unverified Complaint of Plaintiffs AMY
KUNEY; LAUREN SNYDER; KIMBERLY ABOLTIN; JOSEPH DURAY; CARLANN MATZ;
CECILIA CANO; PETER MOLINARI; MILA SPIGOLON; JILL ROOZENBOOM; MARY
CAMERON ROGERS; ANGEL GARET; EVELINA CARTASOVA; AIDAN GOULDING;

1 ZIMO LI; LUCIA KRAMARCZUK; GABRIEL BERISTAIN; ANA FRANCHESCA
2 ROUSSEAU; STEPHEN KIMS; ALEXANDRA KESHEN; AND WARREN PAUL BROCKETT,
3 AS SUCCESSOR IN INTEREST TO CATHERYN BROCKETT (DECEASED) (collectively
4 “Plaintiffs”) as follows:

5 **GENERAL DENIAL**

6 Pursuant to California Code of Civil Procedure § 431.30(d), Defendants deny each and
7 every, all and singular, generally and specifically, the material allegations contained in the
8 unverified Complaint, and further denies Plaintiffs have been damaged in any amount whatsoever.

9 **FIRST AFFIRMATIVE DEFENSE**

10 **(Failure to State Sufficient Facts)**

11 1. The Complaint and each and every cause of action thereof fails to set forth facts or
12 allegations sufficient to constitute a cause of action against Defendant.

13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Statutes of Limitations)**

15 2. The Complaint and each cause of action thereof, is barred by the statutes of
16 limitation set forth in the California Code of Civil Procedure, including Sections 337, 337.1,
17 337.15, 338, 339, 339.5, 340, 343 and all other applicable statutes of limitation.

18 **THIRD AFFIRMATIVE DEFENSE**

19 **(Doctrine of Laches)**

20 3. Plaintiffs have unreasonably delayed in bringing this action to the prejudice of
21 Defendant and are, therefore, barred from bringing this action by the doctrine of laches.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 **(Fault)**

24 4. Plaintiffs are at fault in and about matters referred to in the Complaint, and such
25 fault on the part of Plaintiffs proximately caused and contributed to the damages complained of, if
26 there are any. Defendants further allege that any fault not attributable to Plaintiffs was a result of
27 fault on the part of persons and/or entities other than Defendants.

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FIFTH AFFIRMATIVE DEFENSE

(Civil Code §1941.2)

5. Defendants had no duty to repair any dilapidation under Section 1941 or 1942 because Plaintiffs and each of them, are/were in substantial violation of any of the affirmative obligations set forth in Civil Code §1941.2(a) and said violation(s) contribute/contributed substantially to the existence of the dilapidation and/or interferes/interfered substantially with the Defendants' obligation(s), if any, under Section 1941 to effect the necessary repairs:

SIXTH AFFIRMATIVE DEFENSE

(Comparative Negligence)

6. Should there be any findings of negligence against Defendants, said findings should be compared to the negligence of all parties to this action, including all Defendants, cross-complainants, and cross-Defendants herein.

SEVENTH AFFIRMATIVE DEFENSE

(Willful Misconduct)

7. The alleged injuries or damages suffered by Plaintiffs, if any, was the sole and proximate result of the willful misconduct of the parties other than Defendants.

EIGHTH AFFIRMATIVE DEFENSE

(Indemnification)

8. Should Plaintiffs recover damages from Defendants, Defendants are entitled to indemnification, either in whole or in part, from all persons or entities whose negligence and/or fault proximately contributed to Plaintiffs' damages, if any.

NINTH AFFIRMATIVE DEFENSE

(Estoppel)

9. Plaintiffs directed, ordered, approved and/or ratified Defendants' conduct and are therefore estopped from asserting any claim based thereon.

TENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

10. Plaintiffs have failed and neglected to use reasonable care to minimize and mitigate

the losses, injuries and damages complained of, if any.

ELEVENTH AFFIRMATIVE DEFENSE

(Doctrine of Unclean Hands)

11. The Complaint, and each cause of action thereof, is barred under the doctrine of unclean hands, by reason of Plaintiffs' own acts or omissions in causing the damages alleged.

TWELFTH AFFIRMATIVE DEFENSE

(Intervening Causation)

12. The tortious misconduct alleged in the Complaint as against Defendants, if any, were not a substantial factor in bringing about the alleged damages to Plaintiffs and, therefore, any such alleged misconduct was not a contributing cause but was superseded by tortious misconduct by one or more third parties, whose misconduct was an independent, intervening sole and proximate cause of any alleged injuries or damages suffered.

13. If Plaintiffs sustained any injuries or damages, such injuries or damages were the result of the extraordinary, unforeseeable, and independent superseding act of another or others; and therefore, Defendants are relieved of all responsibility for injuries or damages, if any, allegedly sustained by Plaintiffs.

14. If Plaintiffs sustained any injuries or damages, such injuries or damages were the result of an intervening cause of another or others.

15. If Plaintiffs sustained any injuries or damages, such injuries or damages were due to an unforeseeable act of God, thereby barring either partially or totally Plaintiffs' claimed damages.

16. Accordingly, Plaintiffs are presumed to have relied on their own observations and investigations and not upon any representations or warranties of Defendants.

THIRTEENTH AFFIRMATIVE DEFENSE

(Assumption of Risk)

17. Plaintiffs acted with full knowledge of all the facts and circumstances surrounding its alleged injuries and damages, and thus assumed the risk of its injuries and damages, if any.

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FOURTEENTH AFFIRMATIVE DEFENSE

(Consent)

18. Plaintiffs are barred from recovery against Defendants because Plaintiffs impliedly and/or expressly consented to the acts complained of in The Complaint.

FIFTHTEENTH AFFIRMATIVE DEFENSE

(Waiver)

19. Plaintiffs are barred from recovery against Defendants by the doctrine of waiver.

SIXTEENTH AFFIRMATIVE DEFENSE

(Release)

20. Plaintiffs are barred from recovery against Defendants because Defendants were released of its obligations, if any.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Public Policy)

21. The Complaint, and each cause of action therein, is void and fails to state a cause of action against Defendants in that it is contrary to public policy.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Privilege and Justification)

22. Plaintiffs are barred from recovery to the extent that any alleged conduct, acts or omissions by Defendants were privileged, justified or both.

NINETEENTH AFFIRMATIVE DEFENSE

(Several Damages)

23. Defendants alleges that its liability for non-economic damages shall be several only and not joint, and only for the amount allocated in direct proportion to its percentage of fault pursuant to California Civil Code section 1431.2.

TWENTIETH AFFIRMATIVE DEFENSE

(Standing)

24. The Complaint, and each cause of action therein, is barred in that Plaintiffs lack standing to assert the allegations of The Complaint.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Bad Faith)

25. The Complaint and each cause of action therein is barred by the doctrine of bad faith.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Civil Code §§ 1431, 1431.1 & 1431.2)

26. Plaintiffs' recovery against Defendants, if any, is limited under the provisions of Civil Code sections 1431, 1431.1 and 1431.2.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Equity Does Not Support Recovery)

27. Defendants allege that Plaintiffs should be barred or otherwise prevented from recovering or obtaining any relief from Defendants, on the basis that the equities of Plaintiffs' claims do not merit any recovery from or against Defendants.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Failure to Join Indispensable Party)

28. Defendants allege that The Complaint, and each cause of action therein, is barred to the extent that Plaintiffs have failed to name or join an indispensable party.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(No Justiciable Controversy)

29. Defendants allege that The Complaint filed against Defendants was brought without reasonable care, and without a good-faith belief that there was a justiciable controversy under the facts and the law which warranted the filing of The Complaint against Defendants; and that Plaintiffs would therefore be responsible for Defendants' necessary and reasonable defense costs including attorney's fees, as more particularly set forth in Code of Civil Procedure section 1038.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Acts as a Volunteer)

30. Defendants allege that Plaintiffs should be barred from maintaining this action or obtaining any relief from Defendants for any claims, actions and/or activities where Plaintiffs (or

Plaintiffs' agents, subrogors, assigns, insured parties and/or representatives) acted as a volunteer.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(No Entitlement to Attorney's Fees/Defense Costs)

31. Defendants allege that Plaintiffs are not entitled to an award of attorney's fees in the event that such fees are presently, or will be, claimed.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(No Entitlement to Punitive Damages)

32. Defendants allege that the statutory authority, including but not limited to California Civil Code Section 3294, pursuant to which Plaintiff claim punitive damages is invalid on its face and/or as applied to these Defendants pursuant to the First, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States and Article I of the Constitution of the State of California.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Other Defenses)

33. Defendants allege that it may have other separate and additional defenses of which it is presently unaware and hereby reserves their right to assert them by amendment to this answer when discovery is complete.

THIRTIETH AFFIRMATIVE DEFENSE

(Litigation Privilege and Right To Petition)

34. Defendants allege that its liability, if any, is limited due to the constitutional right to petition and litigation privilege.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Lack of Privity)

35. The Complaint, and each cause of action thereof, fails to state a cause of action against these answering Defendants as there is no privity between Plaintiffs and Defendants.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Civil Code §1942)

36. Plaintiffs have failed to provide written or oral notice to Defendants or their agents

1 within a reasonable time of dilapidations rendering the premises untenable, if any, pursuant to Civil
2 Code §1942.

3 37. As to those dilapidations, if any, which Plaintiffs provided written or oral notice
4 within a reasonable time to Defendants—those dilapidations, if any, were repaired or caused to be
5 repaired by Defendants within a reasonable time pursuant to Civil Code §1942.

6 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

7 **(Repairs Requested Were Beyond Habitability Requirements)**

8 38. The dilapidations which Plaintiffs provided written or oral notice within a reasonable
9 time to Defendants, if any, were beyond the scope of Defendants’ obligations under Civil Code
10 §1941 and applicable building and housing code standards which materially affect health and
11 safety.

12 39. Defendants maintained the leased property, if any, in a condition which met the
13 “bare living requirements” required by law pursuant to *Green v. Superior Court* (1974) 10 Cal.3d
14 637.

15 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

16 **(Unsubstantial Noncompliance with Applicable Code Standards)**

17 40. Defendants’ noncompliance, if any, with Civil Code §1941 and any applicable
18 building and housing code standards which materially affect health and safety, was unsubstantial.

19 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

20 **(Lack of Notice)**

21 41. Defendants did not know of any conditions which existed in violation of the implied
22 warranty of habitability, if any did exist, nor could Defendants have discovered any such conditions
23 through reasonable inspections.

24 42. “A tenant cannot reasonably expect that the landlord will have eliminated defects in
25 a rented dwelling of which the landlord was unaware and which would not have been disclosed by a
26 reasonable inspection.” (*Peterson v. Superior Court* (1995) 10 Cal.4th 1205-1206).

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THIRTY-SIXTH AFFIRMATIVE DEFENSE

(Statutory Authority)

43. Defendants' acts were done or maintained under the express authority of an applicable statute in accordance with Civil Code §3482.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by reason of the Complaint;
2. For attorney's fees pursuant to Code of Civil Procedure section 1038;
3. For costs of suit herein; and
4. For such other and further relief as this Court may deem just and proper

Dated: December 11, 2023

DE LA PEÑA & HOLIDAY LLP

By Kelsey J. Ibarrola
Kelsey J. Ibarrola (Dec 11, 2023 14:52 PST)

Gregory R. de la Peña
Kelsey J. Ibarrola
Attorneys for Defendants
SEYMOUR, LLC; CEPM, INC.; and
CANON EQUITY PARTNERS, LLC

Case Name: Aboltin, et al. v. CEP, et al.

Case No.: Los Angeles Superior Court Case No. 23STCV22597

PROOF OF SERVICE

I am a citizen of the United States. My business address is 601 Montgomery Street, Suite 700, San Francisco, California 94111. I am employed in the county of San Francisco where this service occurs. I am over the age of 18 years and not a party to the within cause.

On December 11, 2023, I served the following document(s) described as:

DEFENDANTS SEYMOUR, LLC; CEP, INC.; and CANON EQUITY PARTNERS, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT

☐ **BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at San Francisco, California, in the ordinary course of business.

☒ **BY ELECTRONIC SERVICE:** By having effected electronic service (e-service) via electronic mail (e-mail) of a true copy of the document(s) listed above to the person(s) and at the email address(es) set forth in the below Service List. My electronic service address is: Calendar@dlphlaw.com. The document(s) listed above were served pursuant to the California Code of Civil Procedure Section 1010.6.

☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand this date to the offices of, only.

☐ **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by FEDERAL EXPRESS with delivery fees provided for, addressed to the person(s) on whom it is to be served.

on the interested party(ies) in this action addressed as follows:

Cynthia M. Ribas (SBN 135227)
RIBAS LEGAL
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Studio City, CA 91604

Attorneys for Plaintiffs

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E: cynthia@ribaslegal.com



STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 11, 2023, at San Francisco, California.

/s/ Monalyn O. Oriente
Monalyn O. Oriente